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October 19, 2020

Judge Mary Kay Vyskocil

Cc:  
All Counsel of Record

USDC SDNY  
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ELECTRONICALLY FILED  
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SENT VIA ECF

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RE: Case No. 19-cv-9308 L.R. 37.2 letter motion to seal summary judgment exhibit

Dear Judge Vyskocil,

Defendant Diesel Power Gear, LLC hereby requests approval to file one document under seal. Exhibit D to the Declaration of Joseph Shapiro in support of Diesel Power Gear's Motion for Summary Judgment (filed October 19, 2020) is a marketing and consumer analysis that Plaintiffs produced in discovery and marked as "CONFIDENTIAL – ATTORNEYS' EYES ONLY." This document includes highly confidential marketing information that, if disclosed to the general public, would allow competitors to gain unfair competitive insights into Plaintiffs' marketing strategies and plans.

Regards,

Defendant's Letter Motion for leave to file under seal Exhibit D to the Declaration of Joseph Shapiro in Support of Diesel Power Gear's Motion for Summary Judgment is GRANTED. The Court has carefully reviewed an unredacted copy of Exhibit D and finds that Plaintiff's interest in maintaining the secrecy of the highly confidential marketing information outweighs the presumption of public access to this judicial document. *See, e.g., GoSMiLE, Inc. v. Dr. Jonathan Levine, D.M.D. P.C.*, 769 F. Supp. 2d 630, 649–650 (S.D.N.Y. 2011) (finding that the defendants' privacy interests in marketing strategies, product development, costs, and budgeting outweighed the presumption of public access). Defendant shall file an unredacted copy under seal via ECF. The Clerk of Court is respectfully requested to close docket entry 41.  
SO ORDERED.

Date: 10/20/2020  
New York, New York

Mary Kay Vyskocil  
United States District Judge

STRONG & HANNI

Joseph Shapiro

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